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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/084,491 | 02/28/2002 | Noboru Nakashima | 0090/004001 | 6676 |

22893 7590 06/02/2003

SMITH PATENT OFFICE
1901 PENNSYLVANIA AVENUE N W
SUITE 200
WASHINGTON, DC 20006

EXAMINER

GHAFOORIAN, ROZ

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3763

DATE MAILED: 06/02/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/084,491

Applicant(s)

NAKASHIMA, NOBORU

Examiner

Roz Ghafoorian

Art Unit

3763

-- Th MAILING DATE of this communication app ars on th c ver sh t with the corr spondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3-15-2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-3,5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 2-3 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No.6001083 to Wilner.

Wilner teaches a hollow needle 101 a fixed sheath 109b a protective sheath 105a and a locking mechanism with a locking slot (figures, 3,4,7a-7b) and locking projection. The protective sheath is slidably fitted inside the fixed sheath (figures 3-4). The safety indwelling further comprises of a pair of wings 103 and 104 one wing coupled to the protective sheath and one to the fixed sheath. The protective sheath slidably fitted to and guided by the tubular portion of the fixed sheath; wherein, the protective sheath and the tubular portion of the fixed sheath have a locking means for restraint protective sheath relative to the tubular portion, and the protective sheath is movable from the tubular portion of the fixed sheath to a position where the tip of the hollow needle is entirely covered.

Response to Arguments

2. Applicant's arguments filed 3-15-2003 have been fully considered but they are not persuasive.

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- a. The applicant alleges Wilner fails to teach a fixed sheath fixing the hollow needle and having a tubular portion or the tubular portion partially covering the needle, however as demonstrated by Wilner in figures 3-4 the fixed sheath 105b fixes the hollow needle 111 and has a tubular portion 210,220 which partially covers the needle 111.
- b. The applicant alleges Wilner fails to teach a protective sheath slidably fitted to and guided by the tubular portion of the fixed sheath, however as demonstrated by Wilner in figures 3-4 a protective sheath 105a slidably fitted to and guided by the tubular portion of the fixed sheath.
- c. The applicant alleges Wilner fails to teach a protective sheath and a tubular portion of the fixed sheath having a locking means for restricting sliding movement of the protective sheath relative to the tubular portion or a protective sheath that is movable from the tubular portion, however as demonstrated by Wilner in figures 3-4 Wilner teaches a protective sheath and a tubular portion of the fixed sheath having a locking means for restricting sliding movement of the protective sheath relative to the tubular portion or a protective sheath that is movable from the tubular portion.

Conclusion

- 3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG
May 28, 2003

A handwritten signature in black ink, reading "Michael J. Hayes". The signature is written in a cursive, flowing style.

MICHAEL J. HAYES
PRIMARY EXAMINER